

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

D-1 DR. RAJENDRA BOTHRA

D-3 DR. GANIU EDU

D-4 DR. DAVID LEWIS

D-5 DR. CHRISTOPHER RUSSO,

Case No. 18-20800

Hon. Stephen J. Murphy, III

Defendants.

/

JURY TRIAL EXCERPT: VOLUME 9

BEFORE THE HONORABLE STEPHEN J. MURPHY, III
United States District Judge
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan 48226
Friday, May 27, 2022

APPEARANCES:

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United States of America:

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(Appearances continued next page)

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To obtain a certified copy of this transcript, contact:

Linda M. Cavanagh, CSR-0131, RDR, RMR, CRR, CRC

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EXHIBITS

Identification

Offered

Received

NONE

1 Detroit, Michigan

2 Friday, June 17, 2022

3 — — —

4 (Proceedings in progress at 1:36 p.m., all parties
5 present, jury present)

6 THE COURT: Okay. Back to business. It looks like
7 our government witness has arrived. Could you look at me
8 before you sit down? Okay. How are you today?

9 THE WITNESS: Great.

10 THE COURT: Good.

11 THE WITNESS: Love being here.

12 THE COURT: Okay. Raise your right hand.

13 D E N I S E S O U L I G N E Y

14 was called as a witness herein, and after being first duly
15 sworn to tell the truth and nothing but the truth, testified on
16 her oath as follows:

17 THE WITNESS: I do.

18 THE COURT: Very good. Thank you. Take your time
19 and be comfortable in the -- in the chair there, and when you
20 are comfortable, just speak toward the mic.

21 THE WITNESS: Speak towards what? I'm sorry.

22 THE COURT: The microphone.

23 THE WITNESS: Oh.

24 THE COURT: Yep. You can move it close to you if
25 you...

1 THE WITNESS: Okay. That's good.

2 THE COURT: Okay. Good. Go ahead, Mr. Helms.

3 DIRECT EXAMINATION

4 BY MR. HELMS:

5 Q. Good afternoon, Ms. Souligney. Can you please state your
6 full name for the record?

7 A. Denise Roberta Souligney.

8 Q. Thank you.

9 And -- and I've been practicing the name. I know
10 I -- sometimes I still mess it up.

11 Are you a former patient of the Pain Center?

12 A. Yes, I am.

13 Q. And how long were you a patient?

14 A. Two and a half years perhaps.

15 THE COURT REPORTER: Ms. Souligney, could you just
16 please make sure you keep your voice up?

17 THE WITNESS: Oh, I'm sorry.

18 THE COURT REPORTER: Because we all have to hear you.
19 Thank you.

20 Q. Before you went to the Pain Center, who was treating your
21 pain?

22 A. My rheumatologist, Dr. Sulich.

23 Q. And why were you seeing a rheumatologist?

24 A. Excuse me? I'm sorry.

25 Q. Why were you seeing a rheumatologist?

1 A. Because I've got rheumatoid arthritis.

2 Q. And did you have any complications because of that, any
3 procedures that you had done in the past?

4 A. Well, I've had 13 surgeries but they weren't problems,
5 which is par for the course.

6 Q. Shoulder replacements?

7 A. They have to be redone every ten years, but yes, I've had
8 a number of them redone.

9 Q. And hip replacements?

10 A. Excuse me?

11 Q. You had hip replacement surgeries as well?

12 A. I've had three hips, three knees, two shoulders.

13 Q. You're bionic at this point.

14 A. Pardon?

15 Q. You're bionic at this point.

16 A. I am, completely.

17 Q. Why did you stop seeing your rheumatologist?

18 A. Because when the government clamped down on the
19 distribution of pain pills, he said he couldn't prescribe them
20 anymore. He did for about six months, but then he said he was
21 going to have to hire more personnel just to handle the
22 paperwork and that he could no longer prescribe it.

23 Q. So how did you learn about the Pain Center?

24 A. I was -- I used CVS Pharmacy in Grosse Pointe, and one of
25 the pharm techs there noticed I wasn't getting pain pills

1 filled anymore and she was a -- a patient of the Pain Center.

2 She gave me their name and number.

3 Q. And if I told you your first visit was around May of 2016,
4 would that sound accurate?

5 A. Yes.

6 Q. Had you ever gone to a pain clinic before the Pain Center?

7 A. No.

8 Q. Were you a walk-in patient or did you call to make an
9 appointment?

10 A. Oh, I called and made an appointment.

11 Q. And when you called the Pain Center, did they ask you to
12 do anything before coming?

13 A. I get an MRI of my spine.

14 Q. And did you do that?

15 A. Yes.

16 Q. And then which Pain Center locations did you go to?

17 A. One in Eastpointe and the other I believe in Warren.

18 Q. And who was the first doctor you saw when you went in May
19 of 2016?

20 A. Dr. Kufner.

21 Q. At that first visit how much time did he spend with you?

22 A. Probably 15, 20 minutes.

23 Q. And -- and was that typical for your visits with Dr.
24 Kufner?

25 A. Not -- from that point on, it was like a ten-minute

1 meeting. He wanted to know how things were going. He felt my
2 spine, where pain was and this and that, but he took -- he took
3 a great interest.

4 Q. Okay. At -- at that first visit what -- what things did
5 he do with you?

6 A. Well, we went over my history. He felt along my spine
7 where the pain points were, then the other joints, but he
8 went -- you know, felt on the spine and then told me what --
9 what he would be doing.

10 Q. He physically touched you?

11 A. Yes.

12 Q. Did he have you move around?

13 A. No. I just stood up and he pressed on various areas in my
14 lumbar spine to see which hurt the most.

15 Q. And did you like Dr. Kufner as a doctor?

16 A. Yes.

17 Q. Sorry. You have to wait until I finish my question.

18 A. I'm sorry.

19 Q. So did you like Dr. Kufner as a doctor?

20 A. Yes.

21 Q. Okay. At that first visit did he tell you what the
22 treatment was going to be?

23 A. Yes.

24 Q. And what did he tell you?

25 A. Excuse me?

1 Q. What did he tell you the treatment would be?

2 A. He told me that I would come in once a month for an
3 injection in the lumbar spine of a cortisone or steroid of some
4 sort and then I would get a prescription for a month's worth of
5 pain pills, and that happened and I went on my way.

6 Q. Did he have a discussion with you about the benefits and
7 risks of injections?

8 A. No.

9 Q. Did he ask you whether you wanted the injections to be
10 ordered?

11 A. No.

12 Q. Did you feel like you could reject the reject -- the
13 injections?

14 A. No.

15 Q. Why not?

16 A. Because the way that the plan was -- was laid out to me
17 was that to get the pain pills, I would have to get the
18 injection every month.

19 Q. And where did you receive the injections?

20 A. I believe the Warren facility. I'm not quite certain.

21 Q. And do you recall how often you -- you received the back
22 injections?

23 A. Once a month.

24 Q. Can you walk the jury through the process of you going to
25 the Warren clinic and receiving an injection?

1 A. I'm sorry, I can't hear you.

2 Q. When you would -- when you would go to the Pain Center to
3 get an -- an injection --

4 A. Mm-hmm.

5 Q. -- okay, can you walk the jury through what happened once
6 you were taken back from the lobby?

7 A. Okay. I went into a cubicle and an IV was placed in my
8 arm and waited there for a little while. Then I was taken into
9 the procedure room where anesthesia was hooked up to the IV.

10 Q. And then do you know how many injections you received at
11 each visit?

12 A. I thought it was like four, two on each side. After the
13 first one, after the pain I kind of -- kind of lost track of
14 what was going on, but I believe I got two in each side of my
15 spine.

16 Q. And were the injections painful?

17 A. Extremely.

18 Q. Did you have any reaction after that first injection?

19 A. I lost the use of my right leg for two days.

20 Q. Did you tell Dr. Kufner about that?

21 A. I called him.

22 Q. When did you call him?

23 A. Why did I call him?

24 Q. No, when, how close in time?

25 A. That evening when I couldn't use my leg I called him, and

1 he was -- seemed very concerned and he said, you know, "Don't
2 worry, it will go away, this is very common." And after a
3 couple days I did gain the use of my right leg back.

4 Q. Do you know who did the anesthesia for that first
5 injection?

6 A. Do I know who or what?

7 Q. Do you know who the doctor was who did the anesthesia for
8 you?

9 A. Don't remember his name. We weren't like really
10 introduced. I had the same anesthesiologist every treatment.

11 Q. Do you remember -- can you say how he was -- how he
12 looked, what his description was?

13 A. Kind of a short black gentleman.

14 MR. HARRISON: Stand up, Dr. Edu.

15 THE WITNESS: Excuse me?

16 Q. Is it Dr. -- is it this person?

17 A. Yes.

18 MR. HELMS: Your Honor, may the record reflect that
19 she identified Dr. Edu?

20 THE COURT: Okay. Go ahead.

21 BY MR. HELMS:

22 Q. After you -- after you got your injections, what would
23 happen typically?

24 A. We'd go back into a waiting room and they would offer
25 juice or cookies or whatever, and then I would wait for them to

1 fill out the prescriptions and then I would go.

2 Q. Did the injections help with your pain?

3 A. No.

4 Q. Ever?

5 A. Never.

6 Q. Did you tell Dr. Kufner they weren't helping?

7 A. Yes.

8 Q. And how did he respond?

9 A. "We'll try something different," and he would feel around
10 where different parts of the lumbar spine, said, "Okay, this is
11 where it's hurting, we'll try here," and then he introduced
12 something, radiofrequency injections. None of it -- none of it
13 did any good.

14 Q. So he first tried different locations in your back?

15 A. Yes, and lower just lumbar region.

16 Q. And were those injections helpful?

17 A. No.

18 Q. And then he tried radiofrequency ablation?

19 A. Yes.

20 Q. Was that helpful?

21 A. No.

22 Q. Did you always tell Dr. Kufner that these procedures were
23 not helpful?

24 A. Yes.

25 Q. So why did you continue receiving the injections?

1 A. Because I needed -- I wanted the pain pills.

2 Q. And did you ever actually tell Dr. Kufner that you did not
3 want the injections?

4 A. No.

5 Q. And why not?

6 A. Because it was presented to me as a package: you get the
7 injection, you get your prescription and we'll see you in a
8 month. So I never thought that there was any possibility to
9 reject the injections. I just took it as a necessary pain. I
10 was in so much pain already that to get the pain pills, it was
11 worth it.

12 Q. At some point did Dr. Russo take over your treatment at
13 the Pain Center?

14 A. Yes.

15 Q. Do you recall approximately when that was?

16 A. Maybe after two years, just -- it was maybe six months.

17 Q. If I -- if I told you around November 2017, would that
18 sound accurate?

19 A. Mm-hmm.

20 Q. Okay. How many actual appointments did you have with Dr.
21 Russo?

22 A. I don't recall.

23 Q. Do you know if you had even one appointment with Dr.
24 Russo?

25 A. Yes, I -- I probably had four or five.

1 Q. Okay. Can you explain what happened at those appointments
2 with Dr. Russo?

3 A. Never spoke to Dr. Russo. I only spoke through his
4 physician's assistant.

5 Q. So you didn't have any interaction with Dr. Russo himself?

6 A. No.

7 Q. As far as you can remember?

8 A. No, he never -- never came in, never talked to me.

9 Q. Did Dr. Russo ever perform injections on you?

10 A. Yes.

11 Q. Before those injections did he talk to you? Before the
12 injections did he talk to you about the injections?

13 A. No.

14 Q. Did he explain at all what he would be doing?

15 A. I would just be led back to the cubicle where they would
16 insert the IV, I'd go into the treatment room, and then after I
17 got my anesthesia he would come in and do the injections and
18 then he was gone. I never saw him after that.

19 Q. Did he ever go over an Informed Consent form with you
20 before the injection?

21 A. No.

22 Q. Was that a no?

23 A. No.

24 Q. Did Dr. Russo ever try to establish a rapport with you?

25 A. No.

1 Q. Did he ever ask you how the injections were helping?

2 A. No.

3 MR. HELMS: Ms. Adams, if you could pull up
4 Exhibit 99, page 3 and highlight the November 16, 2017
5 treatments.

6 BY MR. HELMS:

7 Q. Are you able to see that?

8 A. Yes.

9 Q. Okay. Do you see the name Dr. Russo twice within those
10 five columns or those five rows?

11 A. I see it three times.

12 Q. Well, okay. So the first -- the first two, do you see
13 what the description --

14 A. Oh, three in the same day.

15 Q. Okay. Do you see the descriptions for those appointments
16 with Dr. Russo on November 16, 2017?

17 A. Mm-hmm.

18 Q. Could you read those?

19 A. It was 11-16.

20 Q. 11-16-2017.

21 A. Yes. "Injection procedure to sacroiliac joint for
22 anesthetic or steroid.

23 The second one, "Injection dexamethasone sodium
24 phosphate.

25 "Anesthesia for nerve block and injection procedure,

1 prone position."

2 Q. So at any point in time did Dr. Russo have a discussion
3 with you about those procedures?

4 A. No.

5 Q. Did he ever ask you if they helped you?

6 A. No.

7 MR. HELMS: And if we could turn to the March 14th,
8 2018 session.

9 BY MR. HELMS:

10 Q. Do you -- do you see two entries there from March 14th,
11 2018 involving Dr. Russo?

12 A. Yes.

13 Q. And what's the description for those procedures?

14 A. "Destruction of lower or sacral spinal facet joint nerves
15 using imaging guidance."

16 Q. And do you have any understanding as to what that is?

17 A. Well, it was all -- you know, there was an X-ray there and
18 he was -- I could see the procedure going on so I -- maybe
19 that's what he's talking about was imaging.

20 Q. But do you know what that procedure actually was?

21 A. No.

22 Q. Did Dr. Russo ever attempt to explain to you what it was?

23 A. No.

24 MR. HELMS: And if we pull up, Ms. Adams, Exhibit 75
25 and highlight the March 14th, 2018 prescription. March 14th,

1 2018.

2 BY MR. HELMS:

3 Q. Ms. Souligney, what prescription did you receive on
4 March 14th, 2018?

5 A. Hydrocodone.

6 Q. And who had prescribed that for you?

7 A. Ten milligrams or 10/325 milligrams.

8 Q. I'm sorry, who -- who prescribed it for you?

9 A. It says Russo.

10 MR. HELMS: And if we could briefly turn back to
11 Exhibit 99, page 2 and highlight the November 30th, 2016
12 procedure.

13 BY MR. HELMS:

14 Q. Ms. Souligney, do you see that top line that involves
15 anesthesia?

16 A. Mm-hmm.

17 Q. Who performed the anesthesia that day?

18 A. Always the same gentleman every time I was there.

19 Q. Okay.

20 A. I guess that's Dr. Edu or Dr. whatever, but the same
21 anesthesiologist every time.

22 Q. Okay.

23 MR. HELMS: You can take down the highlight, leave
24 the exhibit up please.

25 BY MR. HELMS:

1 Q. For the sake of time, Ms. Souligney, I don't want to go
2 through every procedure on this chart, but if I told you that
3 you received injections on May 25th, 2016, June 15th, 2016,
4 July 6th, 2016, July 20th, 2016, October 4th, 2016,
5 November 30th, 2016, December 7th -- December 7th, 2016,
6 December 21st, 2016, March 8th, 2017, March 15th, 2017,
7 August 2nd, 2017, August 16th, 2017, September 6th, 2017, and
8 November 16th, 2017, you can look through that and you could
9 see that there's a number of injections?

10 A. Yes.

11 MR. HELMS: If we could highlight December 22nd,
12 2017. It might be on that third page.

13 BY MR. HELMS:

14 Q. Ms. Souligney, do you see an entry there for
15 December 22nd, 2017?

16 A. Yes.

17 Q. And do you see that you were billed for an office visit
18 with Dr. Bothra?

19 A. I never met a Dr. Bothra.

20 Q. That's what I was going to ask you. Did you have an
21 office visit with Dr. Bothra?

22 A. No.

23 Q. No?

24 At some point your injections at the Pain Center
25 stopped, is that true?

1 A. I'm sorry? Excuse me.

2 Q. At some point in 2018 your injections stopped, is that
3 fair?

4 A. Yes.

5 Q. Do you know why they stopped?

6 A. Well, they -- they started decreasing the dosing,
7 decreasing the milligrams, and I just got a bad feeling about
8 the whole thing and I stopped going.

9 MR. HELMS: Ms. Adams, can we pull up Exhibit 75 and
10 then highlight January 16th, 2018?

11 BY MR. HELMS:

12 Q. Ms. Souligney, do you see on this that you received a
13 prescription for [sic] Dr. Lewis on January 16th, 2018?

14 A. He may have been in another room writing out scripts. I
15 never met him. The scripts were never presented to me by the
16 doctor, always by one of the attendants there, so I don't know
17 who wrote the prescription. I never met him.

18 Q. Are you confident that you never saw Dr. Lewis for
19 treatment?

20 A. Yes, I'm confident. I only received treatment from two
21 doctors.

22 Q. Turning to the lobby at the Pain Center, what was the
23 lobby typically like when you went for your visits?

24 MR. HELMS: And you can take that down.

25 A. Very crowded.

1 BY MR. HELMS:

2 Q. Very crowded?

3 A. Yes.

4 Q. How long would you typically wait for your appointment?

5 A. Forty-five minutes to an hour.

6 Q. And without revealing anything actually discussed, did you
7 observe other patients talking in the lobby?

8 A. Yeah, I -- you could overhear some things, mainly about
9 the injections.

10 Q. Let me stop you there. Do you know -- do you have any
11 reason to believe that the staff at the Pain Center overheard
12 patients talking about things?

13 A. Yes.

14 Q. And how do you know that?

15 A. Because I would -- I was admonished by one of the
16 receptionists

17 Q. For talking about things?

18 A. Yes.

19 Q. And what was it that you were talking about?

20 A. About almost being hit by Dr. Russo's car in the parking
21 lot.

22 Q. The last thing I want to bring up is a patient -- your
23 patient file.

24 MR. HELMS: Could we -- could we bring up
25 Exhibit 122D, page 1?

1 BY MR. HELMS:

2 Q. Ms. Souligney, do you see what this form is?

3 A. No, I didn't fill any of that out.

4 Q. I understand, but do you see where it says in the middle,
5 it says a back brace?

6 A. Um...

7 Q. About two-thirds of the down it says, "I recommend the
8 following."

9 A. Oh, yes. No, that -- that never happened. I was never
10 recommended a back brace.

11 Q. The first question is do you see that where it says, "I
12 recommend the following: back brace"? Is that a yes?

13 A. Well, it says "to reduce pain by restricting mobility and
14 spasms, to facilitate healing, supportive joint, improve
15 function." I don't see where it specifically says back brace.

16 Q. There's a --

17 MR. HELMS: May I approach, Your Honor?

18 THE COURT: Of course.

19 A. Oh, I couldn't read the writing.

20 Q. So do you see where it says back brace?

21 A. Yes, I do.

22 Q. And you see the date there is May 3rd, 2016?

23 A. Yes.

24 Q. Did you ever actually receive a back brace?

25 A. No, nor was anyone recommending it.

1 MR. HELMS: And a little bit further down on that
2 page, Ms. Adams.

3 BY MR. HELMS:

4 Q. Do you see where it says, "After fitting patient with a
5 brace, a 10 percent of reduced pain was experienced"? Do
6 you -- just do you see that?

7 A. Yes.

8 Q. Okay. Did you ever tell anyone that the back brace you
9 never put on gave you 10 percent reduction in pain?

10 A. I didn't know that a back brace was even part of the
11 discussion. Nobody said it to me so I had nothing to -- you
12 know, to -- to say. I didn't know about it until I see here.

13 MR. HELMS: No further questions, Your Honor.

14 THE COURT: Okay. All right. Thank you very much.

15 Who wants to get started on the defense side?

16 Nobody? Mr. Margolis?

17 MR. MARGOLIS: Judge, this was the witness that was
18 called out of turn, and I was hoping that we could -- given
19 that the hour it is and that Mr. Harrison and a few people
20 mentioned instead of getting started, we could potentially do
21 it on Monday, start the cross on Monday.

22 THE COURT: Potentially --

23 THE WITNESS: It's a holiday.

24 THE COURT: -- my issue is that this young woman
25 appears to have a bit of difficulty getting around.

1 MR. MARGOLIS: I do understand and I'm sympathetic,
2 Your Honor. I'm -- I'm also sympathetic to Dr. Russo. This
3 is -- represents five of the counts, substantive counts.

4 THE COURT: Okay.

5 THE WITNESS: Monday's a holiday.

6 THE COURT: There -- there's no -- no question
7 pending over there. Just kidding.

8 We'll come back on Tuesday. I hate to ask you to
9 come back, ma'am, but I'm going to have to, okay?

10 THE WITNESS: Okay.

11 THE COURT: All right?

12 THE WITNESS: All right. Whatever you want.

13 THE COURT: Very good. Yep. That'll be the order of
14 the Court. So you might -- might step down and -- and be on
15 your way. Do you have someone to assist your witness?

16 MR. HELMS: Yes, Your Honor, we have someone to drive
17 her.

18 THE COURT: Good. Then we'll take up a couple of
19 matters with the jury before we end the week.

20 MR. HELMS: Your Honor, would you like the witness to
21 leave?

22 THE COURT: I think so. I don't think she wants to
23 hear us talking about our schedule and all these other types of
24 things so...

25 (Witness excused at 1:59 p.m.)

1 (Proceedings in the above-entitled matter adjourned
2 to Tuesday, May 31, 2022)

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C E R T I F I C A T I O N

I, Linda M. Cavanagh, Official Court Reporter of the United States District Court, Eastern District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing pages 1 through 24 comprise a full, true and correct transcript of the excerpt of proceedings taken in the matter of United States of America vs. D-1 Rajendra Bothra, D-3 Ganiu Edu, D-4 David Lewis and D-5 Christopher Russo, Case No. 18-20800, on Friday, May 27, 2022.

s/Linda M. Cavanagh
Linda M. Cavanagh, RDR, RMR, CRR, CRC
Federal Official Court Reporter
United States District Court
Eastern District of Michigan

Date: June 17, 2022
Detroit, Michigan